

RECEIVED
FEDERAL ELECTION
COMMISSIONNeal Florence
P.O. Box 791
LaFayette, GA 30728

2017 JUL 18 AM 6:55

Friends of Neal Florence
P.O. Box 791
LaFayette, GA 30728OFFICE OF GENERAL
COUNSEL

July 3, 2017

Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463
VIA FACSIMILE: (202) 219-3923Re: MUR 7246 -- Response to Complaint from Neal Florence and
Friends of Neal Florence

Dear Mr. Jordan:

On behalf of Neal Florence and Friends of Neal Florence this responds to your letter concerning a complaint filed against Congressman Buddy Carter, his federal committee, Buddy Carter for Congress ("BCC"), his former state senate committee, Friends of Buddy Carter for Senate ("FBC"), and several Georgia state campaign committees (collectively, the "Respondents"). The Complaint was clearly filed for publicity and political gain, as it was submitted by Bryan County Democratic Committee Chairwoman Lisa Ring just weeks before she formally announced her campaign to challenge Congressman Carter in Georgia's First Congressional District in 2018. The Complaint contains no factual support and is based solely on speculation and innuendo. It should be immediately dismissed.

The Federal Election Commission (the "Commission") may find "reason to believe" only if a Complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Federal Election Campaign Act (the "Act"). See 11 CFR § 111.4(a), (d). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. See MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. See *id.*

Specifically, the Complaint erroneously suggests that the Respondents have engaged in "conduit contribution scheme" whereby Congressman Carter made contributions using his former state senate campaign, FBC, to a handful of other state campaign committees, which then made reciprocal contributions to BCC. Aside from being defamatory on its face, Ms. Ring's allegations hold no water.

As purported evidence to support these specious claims, the Complaint cites a \$500 contribution made by Mr. Florence from his personal funds to BCC on August 12, 2013, and a subsequent \$1,000 contribution made by FBC to the Friends of Neal Florence on January 17, 2014, five months later. In citing these contributions, Ms. Ring appears to be inferring that FBC made earmarked contributions to BCC through the Friends of Neal Florence pursuant to 52 U.S.C. § 30116(a)(8) and 11 CFR § 110.6(b)(1), which under that theory would have resulted in illegal transfers from FBC to BCC, in violation of 11 CFR § 110.3(d). Such contentions are both factually and legally flawed.

A contribution is earmarked when there is “a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part or a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate’s authorized committee.” 11 CFR § 110.6(b). In the past, the Commission has determined that contributions were earmarked where there was clear documentary evidence demonstrating a designation or instruction by the donor. See MURs 4831/5274 (Nixon) (finding contributions were earmarked where checks contained express designations on memo lines); see also, MUR 5732 (Matt Brown for U.S. Senate), MUR 5520 (Republican Party of Louisiana/Tauzin), MUR 5445 (Davis), MUR 4643 (Democratic Party of New Mexico) (rejecting earmarking allegations where there was no evidence of a clear designation, instruction, or encumbrance by the donor), and MUR 5125 (Perry) (finding no earmarking because the complaint contained only bare allegations of earmarking, but showed no designation, instruction or encumbrance). The Commission has rejected earmarking claims even where the timing of the contributions at issue appeared to be a significant factor, but the contributions lacked a clear designation or instruction. See MUR 5445 (Davis) and MUR 4643 (Democratic Party of New Mexico).

In this case, the Complaint provides no support that FBC made the “designations, instructions and encumbrances” required for a violation of 52 U.S.C. § 30116(a)(8) and 11 CFR § 110.6(b)(1), when making its contribution to Friends of Neal Florence. FBC’s contribution check to the Committee did not contain any designations or instructions, and were not accompanied by any sort of documentation indicating how the contributions should be used, and FBC did not make any other express or implied, or written or oral instructions or designations to the Committee when making its contribution. Moreover, Friends of Neal Florence did not make any contributions or any other transfers to BCC, and therefore could not have acted as a conduit to transfer funds from FBC to BCC.

In reality, it is common for likeminded federal and state candidates and officeholders to make contributions to each other’s campaigns, and the Supreme Court has made clear that “government regulation may not target the general gratitude a candidate may feel toward those who support him or his allies.” *McCutcheon v. Federal Election Comm’n*, 134 S.Ct. 1434, 1441 (2014) (citing *Citizens United v. Federal Election Comm’n*, 558 U. S. 310, 360 (2010)). In this case, it is hardly suspicious and certainly not illegal for two former colleagues in the Georgia legislature to support each other’s campaigns.

In presenting politically-motivated and factually and legally unsubstantiated arguments, Ms. Ring has failed to demonstrate that the Mr. Florence or Friends of Neal Florence violated

